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**HOUSE BILL 984**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Al Park

**AN ACT**

**RELATING TO ELECTIONS; CHANGING THE TIMES FOR ABSENTEE VOTING;  
CHANGING REPORTING REQUIREMENTS FOR ABSENTEE BALLOT REGISTERS;  
PROVIDING STANDARDS FOR VOTER ASSISTANCE; AMENDING AND ENACTING  
SECTIONS OF THE ELECTION CODE.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 1-6-4 NMSA 1978 (being Laws 1969,  
Chapter 240, Section 130, as amended) is amended to read:**

**"1-6-4. ABSENTEE BALLOT APPLICATION. - -**

**A. Application by a federal qualified elector for  
an absentee ballot shall be made on the official postcard form  
prescribed or authorized by the federal government to the  
county clerk of the county of his residence.**

**B. Application by a voter for an absentee ballot  
shall be made only on a form prescribed [~~printed and furnished~~]**

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1 by the secretary of state [~~to the county clerk of the county in~~  
2 ~~which the voter resides~~]. The form shall identify the  
3 applicant and contain information to establish his  
4 qualification for issuance of an absentee ballot under the  
5 Absent Voter Act; provided that on the application form for a  
6 general election ballot there shall be no box, space or place  
7 provided for designation of the voter's political party  
8 affiliation. The county clerk shall mail an application to all  
9 registered voters in the county at least thirty-five days  
10 before the election and include a notice of when and where a  
11 voter may vote absentee early in person.

12 C. Each application for an absentee ballot shall be  
13 subscribed by the applicant. "

14 Section 2. Section 1-6-5 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 131, as amended by Laws 2001, Chapter 49,  
16 Section 1 and by Laws 2001, Chapter 58, Section 1) is amended  
17 to read:

18 "1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--  
19 MARKING AND DELIVERY OF BALLOT IN PERSON.--

20 A. The county clerk shall mark each completed  
21 absentee ballot application with the date and time of receipt  
22 in the clerk's office and enter the required information in the  
23 absentee ballot register. The county clerk shall then  
24 determine if the applicant is a voter, an absent uniformed  
25 services voter or an overseas voter.

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1           B. If the applicant [~~has not~~] does not have a valid  
2 certificate of registration on file in the county and he is not  
3 a federal qualified elector or if the applicant states he is a  
4 federal qualified elector but his application indicates he is  
5 not a federal qualified elector, [~~not~~] an absentee ballot shall  
6 not be issued and the county clerk shall mark the application  
7 "rejected" and file the application in a separate file from  
8 those accepted.

9           C. The county clerk shall notify in writing each  
10 applicant of the fact of acceptance or rejection of his  
11 application and, if rejected, shall explain why the application  
12 was rejected.

13           D. If the county clerk finds that the applicant is  
14 a voter [~~or~~] other than a federal qualified elector or overseas  
15 voter, the county clerk shall mark the application "accepted"  
16 and, beginning twenty-eight days before the election, deliver  
17 an absentee ballot to the voter in the county clerk's office or  
18 mail to the applicant an absentee ballot and the required  
19 envelopes for use in returning the ballot. If the county clerk  
20 finds that the applicant is a federal qualified elector or  
21 overseas voter, the county clerk shall mark the application  
22 "accepted" and beginning forty-five days before the election,  
23 mail to the applicant an absentee ballot and the required  
24 envelopes for use in returning the ballot. Acceptance of an  
25 application of a federal qualified elector constitutes

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1 registration for the election in which the ballot is to be  
2 cast. Acceptance of an application from an overseas voter who  
3 is not an absent uniformed services voter constitutes a request  
4 for changing information on the certificate of registration of  
5 any such voter. [~~No~~] An absent voter shall not be permitted to  
6 change his party affiliation during those periods when change  
7 of party affiliation is prohibited by the Election Code. Upon  
8 delivery of an absentee ballot to a voter in the county clerk's  
9 office or mailing of an absentee ballot to an applicant who is  
10 a voter, an appropriate designation shall be made on the  
11 signature line of the signature roster next to the name of the  
12 voter who has been provided or mailed an absentee ballot.

13 E. If an application for an absentee ballot is  
14 delivered in person to the county clerk and is accepted, the  
15 county clerk shall provide the voter an absentee ballot and it  
16 shall be marked by the applicant in a voting booth of a type  
17 prescribed by the secretary of state, sealed in the proper  
18 envelopes and otherwise properly executed and returned to the  
19 county clerk or his authorized representative before the voter  
20 leaves the office of the county clerk. The act of marking the  
21 absentee ballot in the office of the county clerk shall be a  
22 convenience to the voter in the delivery of the absentee ballot  
23 and does not make the office of the county clerk a polling  
24 place subject to the requirements of a polling place in the  
25 Election Code other than is provided in this subsection. It

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1 shall be unlawful to solicit votes, display or otherwise make  
2 accessible any posters, signs or other forms of campaign  
3 literature whatsoever in the clerk's office. Absentee ballots  
4 may be marked in person [~~during the regular hours and days of~~  
5 ~~business~~] at the county clerk's office [~~from 8:00 a.m.~~] during  
6 the regular hours and days of business beginning on the  
7 [fortieth] twenty-eighth day preceding the election [~~up until~~  
8 ~~5:00 p.m.~~] and from 10:00 a.m. to 6:00 p.m. on the Saturday  
9 immediately prior to the date of the election. In marking the  
10 absentee ballot, the voter, pursuant to the provisions of  
11 Section 1-12-15 NMSA 1978, may be assisted by one person of the  
12 voter's choice.

13 F. Commencing [~~with~~] on the [~~twentieth day~~] third  
14 Saturday prior to an election, an absent voter may vote in  
15 person, on an electronic voting machine [~~at the county clerk's~~  
16 ~~office or~~] at an alternate location established by the county  
17 clerk. [~~provided, a county clerk may allow an absent voter to~~  
18 ~~vote on an electronic voting machine beginning on the fortieth~~  
19 ~~day before an election.~~] In class A counties with more than two  
20 hundred thousand registered voters, the county clerk shall  
21 establish not less than [~~four~~] twelve alternate voting  
22 locations as a convenience to the voters. For class A counties  
23 with two hundred thousand registered voters or less, the county  
24 clerk shall establish not less than five alternate voting  
25 locations. For all other counties, the county clerk shall

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1 establish one alternate voting location for every fifteen  
2 thousand registered voters in the county. Absentee voting may  
3 be done at [~~the county clerk's office or~~] an alternate location  
4 [~~during the regular hours of business from 8:00 a.m. on the~~  
5 ~~twentieth day prior to the election until 5:00 p.m. on~~] from  
6 12:00 p.m. to 8:00 p.m., Tuesday through Friday, and 10:00 a.m.  
7 to 6:00 p.m. Saturday through the Saturday immediately prior to  
8 the election. The county clerk shall ensure that procedures  
9 established for processing an absent voter application and for  
10 voting by absentee ballot are complied with at each  
11 [~~alternative~~] alternate location.

12 G. Absentee ballots shall be [~~air-mailed~~] airmailed  
13 to applicants temporarily domiciled inside or outside the  
14 continental limits of the United States not later than on the  
15 Thursday immediately prior to the date of the election.

16 H. [~~No~~] An absentee ballot shall not be delivered  
17 or mailed by the county clerk to any person other than the  
18 applicant for such ballot.

19 I. The county clerk shall accept and process, with  
20 respect to a primary or general election for any federal  
21 office, any otherwise valid voter registration application from  
22 an absent uniformed services voter or overseas voter if the  
23 application is received not less than thirty days before the  
24 election. The county clerk shall also accept and process  
25 federal write-in absentee ballots from overseas voters in

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1 general elections for federal offices in accordance with the  
2 provisions of Section 103 of the federal Uniformed and Overseas  
3 Citizens Absentee Voting Act.

4 J. The secretary of state and each county clerk  
5 shall make reasonable efforts to publicize and inform voters of  
6 the times and locations for absentee voting."

7 Section 3. Section 1-6-6 NMSA 1978 (being Laws 1969,  
8 Chapter 240, Section 132, as amended) is amended to read:

9 "1-6-6. ABSENTEE BALLOT REGISTER. --

10 A. For each election, the county clerk shall keep  
11 an "absentee ballot register", in which he shall enter:

12 (1) the name and address of each absentee  
13 ballot applicant;

14 (2) the date and time of receipt of the  
15 application;

16 (3) whether the application was accepted or  
17 rejected;

18 (4) the date of issue of an absentee ballot in  
19 the county clerk's office or at an alternate location or the  
20 mailing of an absentee ballot to the applicant;

21 (5) the applicant's precinct;

22 (6) whether the applicant is a voter, a  
23 federal voter, a federal qualified elector or an overseas  
24 [citizen] voter; and

25 (7) the date and time the completed absentee

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1 ballot was received from the applicant by the county clerk or  
2 the absent voter voted early in person in the county clerk's  
3 office or at an alternate location.

4 B. [~~Within twenty-four hours~~] After receipt of a  
5 voter's application for an absentee ballot, the county clerk  
6 shall mail either the ballot, if it is within twenty-eight days  
7 of election day or a notice of rejection to the applicant  
8 within twenty-four hours of receipt.

9 C. The absentee ballot register is a public record  
10 open to public inspection in the county clerk's office during  
11 regular office hours. The county clerk shall have an updated  
12 absentee ballot register available for public inspection Monday  
13 through Friday during regular office hours.

14 D. The county clerk shall deliver to the absent  
15 voter precinct on election day a complete list of all absentee  
16 ballot applicants and early voters with applicable information  
17 shown in the absentee ballot register for each applicant and  
18 early voter up to [~~5:00 p.m.~~] 6:00 p.m. on the [~~Thursday~~]  
19 Saturday preceding the election. The county clerk shall  
20 deliver a signature roster containing the same information as  
21 the lists to the absent voter precinct board.

22 E. The county clerk shall transmit to the secretary  
23 of state and to the county chairman of each of the major  
24 political parties in the county a complete copy of entries made  
25 in the absentee ballot register. Such transmissions shall be

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1 made once each week beginning four weeks immediately prior to  
2 the election. A final copy shall be transmitted on the  
3 ~~[Friday]~~ Saturday immediately following the election.

4 F. If the county clerk has available the technology  
5 to do so, at the request of a candidate or chair of a political  
6 party of the county, the county clerk shall electronically  
7 transmit to the candidate or chair via the internet the  
8 information, when updated, on the absentee ballot register  
9 indicating voters who have requested absentee ballots, returned  
10 their absentee ballots or voted early in person. "

11 Section 4. A new section of the Absent Voter Act is  
12 enacted to read:

13 "[NEW MATERIAL] EARLY VOTING--ALTERNATIVE VOTING  
14 LOCATIONS--POLL WORKERS.--An alternate voting location shall be  
15 attended by at least two poll workers of different political  
16 parties. "

17 Section 5. A new section of the Absent Voter Act is  
18 enacted to read:

19 "[NEW MATERIAL] ABSENTEE BALLOT--DELIVERY TO COUNTY  
20 CLERK.--A voter, caregiver to that voter or member of that  
21 voter's immediate family may deliver that voter's absentee  
22 ballot to the county clerk in person or by mail. "

23 Section 6. A new section of the Absent Voter Act is  
24 enacted to read:

25 "[NEW MATERIAL] EARLY VOTING--ALTERNATE VOTING PLACES--

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**PROCEDURES. -- The secretary of state shall adopt rules to:**  
**A. ensure that voters have adequate access to**  
**alternate locations for early voting in each county, taking**  
**into consideration population density and travel time to the**  
**place of voting; and**  
**B. ensure that early voters are not allowed to vote**  
**in person on election day. "**